

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

C.R. BARD, INC and BARD	)	
PERIPHERAL VASCULAR, INC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 21-349 (CFC)
	)	
ANGIODYNAMICS, INC.,	)	
	)	
Defendant.	)	

**[PROPOSED] ORDER REGARDING CLAIM CONSTRUCTION**

Having considered the parties’ Joint Claim Construction Brief filed on October 19, 2023 (D.I. 78) and having held a Markman hearing on December 18, 2023, and in accordance with the reasoning set forth on the record during the Markman hearing, IT IS HEREBY ORDERED that:

1. The parties’ disputed claim terms are construed as follows:

Claim Term	Claim(s)	Court’s Construction
“[access port assembly] suitable for power injection”	’992 patent claims 1, 7  ’993 patent claims 1, 10	“[access port assembly] capable of being injected and pressurized by mechanical assistance”
“Power injectable access port”	’993 claims 1-10	“Access port capable of being injected and pressurized by mechanical assistance”

2. The Court reserves construing the “etched into the metal” term until such time the Court deems appropriate.

3. The Court adopts the following construction agreed to by the parties:

<b>Claim Term</b>	<b>Claim(s)</b>	<b>Construction</b>
“radiopaque”	’992 claims 1, 5, 7 ’993 claims 1, 2, 4, 7, 8, 9, 10	visible on X-ray

4. The printed matter doctrine applies to the following claim terms:

- “one or more symbols, one or more patterns, one or more characters, one or more designs, and combinations thereof” in ’993 patent claim 8;
- “radiopaque identifier”/“identifier” in ’992 patent claims 5, 7 and ’993 claim 10;
- “radiopaque identification feature” / “identification feature” in ’993 patent claims 1-2, 4, 7-9;
- “radiopaque alphanumeric message” / “alphanumeric message” in ’992 patent claims 1, 3 and ’993 patent claims 2, 4;
- “indicating that the venous access port assembly is suitable for power injection” in ’992 patent claim 1;
- “to indicate that the venous access port assembly is suitable for power injection” in ’992 patent claim 7;

- “conveys to an observer using the imaging technology that the power-injectable access port is suitable for power injection” in ’993 patent claim 1;
- “to indicate that the power-injectable access port is suitable for power injection” in ’993 patent claim 10;
- “letters” in ’992 patent claims 4, 6-7 and ’993 patent claims 5, 7, 9-10;
- “wherein the radiopaque alphanumeric message includes an abbreviation for computed tomography” in ’992 patent claim 3;
- “wherein the abbreviation for computed tomography includes letters ‘C’ and ‘T’” in ’992 patent claim 4 and “’993 patent claim 5;
- “wherein the radiopaque identifier includes an abbreviation for computed tomography” in ’992 patent claim 5;
- “wherein the abbreviation includes letters ‘C’ and ‘T’” in ’992 patent claim 6;
- “wherein the radiopaque identification feature comprises an alphanumeric message” ’993 patent claim 2;

- “wherein the radiopaque identification feature is an alphanumeric message including an abbreviation for computed tomography” ’993 patent claim 4;
- “wherein the radiopaque identification feature includes letters ‘CT’” in ’993 patent claim 7;
- ““wherein the radiopaque identification feature includes letters ‘C’ and ‘T’” in ’993 patent claim 9;
- “a radiopaque identifier including letters ‘CT’” in ’993 patent claim 10.

SO ORDERED this \_\_\_\_ day of January, 2024.

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CHIEF, UNITED STATES DISTRICT JUDGE